HIGH COURT OF CHHATTISGARH AT BILASPUR
Writ Petition No. 2103 of 2002

Petitioner : Dalsai S/o Nanka,
aged about 31 years, R/o Sadak
Dafai, Haldibadi, Chirmiri Colliery,
Distt.- Korea (C.G.).

Versus

Respondents :1. Union of India
Through-Secretary,
Ministry of Coal, Govt. of India,
Shastri Bhawan, New Delhi.

2. South Eastern Coalfields Ltd.,
Through its CMD, Seepat Road,
Bilaspur (C.G.).

3. General Manager,
SECL, Chirmiri Colliery, Korea
(C.G.).

4. Chief Personal Manager,
N.C.P.H. Colliery,
Chirmiri Area, Korea (C.G.).

Single Bench: Hon'ble Mr. Justice Satish K. Agnihotri

Shri Pankaj Shrivastava, counsel for the petitioner.
Shri S.K. Beriwal, Standing counsel for the Union of India/respondent No. 1.
None for the respondent No. 2
Shri H.B. Agrawal, Senior counsel with Shri Pankaj Agrawal, counsel for the respondent No. 3 and 4.

ORAL ORDER

(19th January, 2006)

1. Learned counsel for the petitioner submits that father of the petitioner namely Nanka, who was working as Regular Line Majdoor Category-I (Khalasi) since 15.11.1967 in New Chirmiri Ponri Hill Colliery of South Eastern Coalfields Limited, met with an accident on 26.2.1991 while working and he was declared medically unfit and permanently disabled.

(S2)

2. As per clause 9.3.0 of the National Coal Wages Agreement, one dependant of workers, who have been declared permanently disabled and also those who died while in the service, are entitled to employment. Para 9.3 reads as under :-

"9.3.0 Provision of employment to dependants.

9.3.1 Employment would be provided to one dependant of workers who are disabled permanently and also those who die while in service. The provision will be implemented as follows.

9.3.2 Employment to one dependant of the worker who dies while in service.

In so far as female dependants are concerned, their employment/payment of monetary compensation would be governed by para 9.5.0

9.3.3 The dependant for this purpose means the wife/husband as the case may be unmarried daughter, son and legally adopted son. If no such direct dependant is available for employment, younger brother, widowed daughter/widowed daughter-in-law or son-in-law residing with the deceased and almost wholly dependant on the earrings of the deceased may be considered to be the dependants of the deceased.

9.3.4 The dependants to be considered for employment should be physically fit and suitable for employment and aged not more than 35 years provided that the age limit in case of employment of female spouse is would be 45 years as given in clause 9.5.0. In so far as male spouse is concerned, there would be no age limit regarding provision of employment."

3. Since father of the petitioner was declared permanently disabled on 10/11.4.1991 (Annexure P-4), the petitioner as per the provision of the National Coal Wages Agreement being dependant of Shri Nanka, was entitled to employment in the respondents No. 2, 3 and 4 project.

4. Learned counsel for the petitioner submits that the petitioner was suitable for employment in view of his qualification, age etc. The respondents No. 2 to 4 in their affidavit have admitted that the petitioner had submitted affidavit and other documents relating to his

relations, certificate, photograph etc. and the petitioner is entitled to be appointed as per National Coal Wages Agreement.

5. Learned counsel for the respondents No. 2 to 4 submits that the petitioner has made an application for employment very late on 4.9.2004.

6. In view of the admitted facts of both the parties as stated above, the respondents are directed to consider the application of the petitioner dated 4.9.2004, in accordance with law, in the light of the provisions of the National Coal Wages Agreement.

7. The writ petition is accordingly allowed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Bablu